

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

|                                 |   |                                         |
|---------------------------------|---|-----------------------------------------|
| KQUAWANDA S. MOORE,             | ) |                                         |
|                                 | ) |                                         |
| Plaintiff,                      | ) |                                         |
|                                 | ) | Cause No. 4:12-cv-00381                 |
|                                 | ) |                                         |
| v.                              | ) |                                         |
|                                 | ) | Circuit Court of the City of St. Louis, |
|                                 | ) | Missouri, Cause No. 1222-CC00002        |
|                                 | ) | Division 1                              |
| CONCENTRA HEALTH SERVICES, INC. | ) |                                         |
| and OCCUPATIONAL HEALTH CENTERS | ) |                                         |
| OF THE SOUTHWEST, P.C.,         | ) |                                         |
|                                 | ) |                                         |
| Defendants.                     | ) |                                         |

**NOTICE OF REMOVAL**

Defendant Concentra Health Services, Inc. (“Concentra”), pursuant to 28 U.S.C. §§1332, 1441 and 1446, and expressly reserving all rights otherwise to respond to this lawsuit, hereby gives notice of removal of the civil action captioned Kquawanda Moore v. Concentra Health Services, Inc. et al., No. 1222-CC00302, from the Missouri Circuit Court for the Twenty-Second Judicial Circuit (St. Louis City) (the “state court action”) to the United States District Court for the Eastern District of Missouri, Eastern Division. As grounds for removal, Concentra states as follows:

1. Plaintiff commenced the state court action on January 3, 2012. Concentra was served with process and a copy of the Petition on February 1, 2012. True and correct copies of all process, pleadings, and orders served upon Concentra are being filed with this Notice, as required by 28 U.S.C. §1446(a). (*See* Exhibit A.)

2. Concentra has filed this Notice of Removal within 30 days of receipt, through service or otherwise, of a copy of the plaintiff's original Petition, pursuant to 28 U.S.C. §1446(b). Therefore, this Notice of Removal, filed March 2, 2012, is timely.

3. Defendant Occupational Health Centers of the Southwest, P.C., has not been served with the Petition, and therefore, need not consent to this removal.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1332 and 1441 because this is a civil action between citizens of different states, in which the matter in controversy exceeds \$75,000, exclusive of interest and costs.

5. Plaintiff alleges she is "an adult citizen of the State of Missouri...". (Petition, Exhibit A, ¶ 1.) Concentra is a Nevada corporation with its principal place of business in Texas. (*See* corporate application and original certificate of authority issued by Missouri Secretary of State, attached as Exhibit B.) Therefore, under 28 U.S.C. §1332(c)(1), Concentra is a citizen of Nevada and Texas, while plaintiff is a citizen of Missouri.

6. The matter in controversy in this case easily exceeds \$75,000, exclusive of interest and costs. Plaintiff alleges claims for general negligence, negligence per se, and defamation/libel. (Petition, Exhibit A, pp. 6-9.) These claims are based on allegations that Concentra and its employees and agents negligently mishandled a federally regulated drug test, and falsely reported to plaintiff's employer that she had refused to take the required test. (Petition, Exhibit A, ¶¶ 7-32.) Plaintiff alleges Concentra's actions caused her to be fired from her job, and to lose the school bus endorsement on her commercial driver's license. (Petition, Exhibit A, ¶¶ 30, 31.) Plaintiff alleges that as a result of Concentra's actions, she suffered "the loss of her job, damage to her reputation, and damage to her ability to obtain future

employment.” (Petition, Exhibit A, ¶¶ 36, 43, 50.) Plaintiff is seeking both compensatory and punitive damages on all three counts of her petition.

7. Due the serious nature of plaintiff’s claimed damages, both to her reputation and career, as well as her claims for punitive damages, the matter in controversy clearly exceeds \$75,000. *See Quinn v. Kimble*, 228 F. Supp. 2d 1038, 1040 (E.D. Mo. 2002) (finding that the matter in controversy exceeded \$75,000, though not on the face of the petition, based on plaintiffs’ complaint of “numerous serious and disabling injuries” and concluding “as legal matter that a fact finder might conclude that the damages of each plaintiff exceeds the jurisdictional amount”); *Allison v. Sec. Ben. Life Ins. Co.*, 980 F.2d 1213, 1215 (8th Cir. 1992) (“Punitive damages are included in determining the amount in controversy”). Because plaintiff and Concentra are citizens of different states, and the amount in controversy exceeds \$75,000 exclusive of interest and costs, this case may be removed to this Court.

8. Defendants will promptly provide notice of the removal of this action to Plaintiff and to the Missouri Circuit Court, Twenty-Second Judicial Circuit, City of St. Louis, by filing a “Removal Notice,” together with a copy of this “Notice of Removal,” in the Missouri Circuit Court, Twenty-Second Judicial Circuit, City of St. Louis, and by serving copies of the same on Plaintiff pursuant to 28 U.S.C. §1446(d).

9. The City of St. Louis is within the Eastern District of Missouri’s Eastern Division.

10. This action is not an action described in 28 U.S.C. §1445.

11. No admission of fact, law, or liability is intended by this Notice, and all defenses, affirmative defenses and motions are hereby reserved.

WHEREFORE, Concentra Health Services, Inc. prays that this Court accept jurisdiction of this action.

/s/ Jonathan H. Garside

Jonathan H. Garside, #48523MO

Erika N. Reynolds, #60361MO

FOX GALVIN, LLC

One South Memorial Drive, 12th Floor

St. Louis, MO 63102

314-588-7000

314-588-1965 (Fax)

[jgarside@foxgalvin.com](mailto:jgarside@foxgalvin.com)

Attorneys for Defendant

Concentra Health Services, Inc.

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was sent by United States mail, postage prepaid, this 2<sup>nd</sup> day of March, 2012, to the following counsel of record:

Mr. Douglas B. Ponder

Mr. Jaclyn M. Zimmermann

Ponder Zimmermann LLC

1141 South Seventh Street, Suite 309

St. Louis, MO 63104

/s/ Jonathan H. Garside